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## Local Government Committee

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### SSB 5585

**Brief Description:** Requiring a report from port districts regarding management of former commercial waterway district property.

**Sponsors:** Senate Committee on Government Operations & Elections (originally sponsored by Senators Poulsen, Esser and Prentice).

#### Brief Summary of Substitute Bill

- Makes the factual finding that private use of former waterway district lands without administrative oversight authority by the public owner is not in the best interest of the public or of taxpayers.
- Makes the factual finding that management under port district authority of former commercial waterway district property must be conducted in a manner that maintains the area's economic vitality, protects the environment, and responsibly preserves the public interest in public property.
- Requires that by December 1, 2005, a port district to which the property of a former commercial waterway district was transferred shall report to the chairs of the legislative committees with jurisdiction regarding port property formerly owned by the waterway district.

**Hearing Date:** 3/28/05

**Staff:** CeCe Clynch (786-7168).

#### **Background:**

##### Port Districts.

Port districts are authorized for the purpose of acquisition, construction, maintenance, operation, development and regulation within the district of harbor improvements, rail or motor vehicle transfer and terminal facilities, water and air transfer and terminal facilities, or any combination of these facilities. A port district may also, through its commission, spend money and conduct promotions of resources and facilities within the district or general area through advertising, publicizing, or marketing.

A port district is granted broad authority to lease all lands, wharves, docks, and all other property it owns and controls for whatever purposes it deems proper. Subject to specified exceptions, such

leases are limited to a maximum of 50 years, but under certain circumstances may be subject to additional 30-year extensions.

### Commercial Waterway Districts.

Early in the twentieth century, the Legislature authorized the creation of commercial waterway districts for the purpose of constructing waterways for commercial navigation by straightening and deepening existing river channels.

The Washington Supreme Court, in 1963, determined in a case involving the Duwamish waterway that the district held title to land within the 500-foot right-of-way in trust for the public. Because the land was held by the district in its governmental capacity, title by adverse possession could not be acquired. The court also held, however, that (1)the district had no power to lease any area within the 500-foot right-of-way; and (2)an abutting upland owner had a right of access to the navigable channel to the extent that it did not interfere with navigation or any other right of the general public. Because the abutting upland owner's dock and loading facilities did not interfere with navigation or any other right of the general public, the district could not have the physical structures removed from the 500-foot right-of-way.

In 1963, the Legislature authorized commercial waterway districts to transfer their functions and property to port districts. In 1971, the legislation creating commercial waterway districts was repealed.

### **Summary of Bill:**

The act makes the following factual findings:

- that private use of former waterway district lands without administrative oversight authority by the public owner is not in the best interest of the public or of taxpayers; and
- that management under port district authority of former commercial waterway district property must be conducted in a manner that maintains the area's economic vitality, protects the environment, and responsibly preserves the public interest in public property.

The bill also requires that by December 1, 2005, a port district to which the property of a former commercial waterway district was transferred shall report to the chairs of the legislative committees with jurisdiction regarding port property formerly owned by the waterway district. The report must include:

- existing uses of the port property by those using former waterway district property;
- a general outline of potential future uses of the public property owned by the port district;
- the status of the environmental mitigation and cleanup of the waterway that is required by federal and state law;
- the status of the port district's communication to, and work with, those using former waterway district property as of January 1, 2005; and
- general terms and conditions of leases the port believes are necessary to give the port adequate control over its property and the general terms and conditions that the port believes will give the current users of the public property continued access to the waterway.

The act expires December 31, 2005.

**Appropriation:** None.

**Fiscal Note:** Requested on March 21, 2005.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.